H-I-G-H-L-Y C-O-N-F-I-D-E-N-T-I-A-L

SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY

STATE of WASHINGTON,	*	
	*	
Plaintiff,	*	
	*	
v.	*	No. 96-2-15056-8SEA
	*	
AMERICAN TOBACCO, et al.,	*	
	*	
Defendants.	*	

* *

DEPOSITION OF RONALD GRIZZELL

* *

September 30, 1997

Richmond, Virginia

ORIGINAL

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Deposition of RONALD GRIZZELL taken by and before Donna T. Chandler, RPR, RMR, Notary Public in and for the Commonwealth of Virginia at large, pursuant to Rule 30(b) of the Washington Rules of Civil Procedure, and by agreement to take depositions; commencing at 9:00 a.m., September 30, 1997, at Hunton & Williams, Riverfront Plaza - East Tower, 951 East Byrd Street, Richmond, Virginia.

Appearances:

HAGENS & BERMAN
By: JENIPHR A. E. BRECKENRIDGE, ESQ.
attorney, of counsel for Plaintiff State of Washington

HELLER, EHRMAN, WHITE & McAULIFFE
By: MAURA SCOTT BLANK, ESQ.
attorney, of counsel for Defendant Philip Morris

HUNTON & WILLIAMS
By: LONNIE D. NUNLEY, III, ESQ.
RICHARD BURTON, ESQ.
attorneys, of counsel for Defendant Philip Morris and the deponent

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I N D E X

DEPONENT

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RONALD GRIZZELL,

was sworn and testified as follows:

DIRECT EXAMINATION

BY MS. BRECKENRIDGE:

Q Good morning, Mr. Grizzell.

A Good morning.

Q Am I pronouncing your name correctly? Is it Grizzell?

A Yes.

Q Okay. Could you please state your name and address, home address, for the record?

A Ronald Grizzell, REDACTED

Q Mr. Grizzell, the reason we're here today is to elicit testimony for -- from you in the case of the *State of Washington v. Philip Morris* among other defendants. And to start out, I just want to set forth a few guidelines.

The most important objective is for us to be clear with each other today. If at any time I ask you a question that you don't understand or is not clear to you, if you could let me know.

Some of the other guidelines are that our court reporter will be recording everything both of

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us says and anything that your lawyer says. So it's important that we don't talk at the same time and that you respond audibly.

A (Deponent nodding head.)

Q Have you ever had your deposition taken before?

A No, ma'am.

Q Have you ever testified at trial, at a trial, any trial?

A No, ma'am.

Q Could you tell me what your current job is?

A Group leader of Analytical, Analytical and Physical Testing.

Q And that is at Philip Morris?

A Yes.

Q How long have you been in that position?

A The title of the position has changed, but basically the content of the job has remained the same for nine years.

Q Have you been in that position for nine years?

A Yes, ma'am.

Q And what was the previous title of that position?

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A Section Supervisor, TLA.

Q And would TLA stand for Tobacco Lot Analysis?

A That's correct.

Q Is the Analytical and Physical Testing the name of your department? Let me just, let me clarify that.

I'm going to try to find out from you in the next few minutes how your position fits into the department you're in and Philip Morris on a larger basis.

A I mean --

Q So that's --

A I'm in the Leaf Department.

Q Okay. You're in the Leaf Department. And Analytical and Physical Testing, is that one section of the Leaf Department?

A I work in the Tobacco Quality Assurance Facility. And that's a real big chunk of the work that's performed at that building.

Q When you say "that's a real big chunk of the work that's performed in that building," that would be the Analytical and Physical Testing?

A That's correct.

Q And the Analytical and Physical Testing,

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would it be fair to say that's a component of TQAF?

A Yes.

Q Are there other components of TQAF?

A Yes.

Q Is TQAF a term that you use or am I making that up?

A No. That's what the Tobacco Quality Assurance Facility is typically referred to, as TQAF.

Q I don't want to use terminology that isn't meaningful to you.

What are the other components of TQAF?

A It's other physical testing and other chemical testing that I have not been associated with.

Q And just to put it into context, can you tell me what the other physical testing areas are?

MR. NUNLEY: Objection as to form. You mean what they do?

BY MS. BRECKENRIDGE:

Q First, do they have titles such as Analytical and Physical Testing, the other physical testing areas?

A Yes. Every position has a title.

Q Are there groups within Other Physical Testing?

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A There were up until I guess technically this month.

Q Okay. If I refer to Other Physical Testing, is that a meaningful term at -- within the Leaf Department?

A It probably would not be.

Q Okay. Why don't you tell me then the other physical tests that there are within the department?

A Another program that's done that's almost exclusively physical testing would be the Audit Program.

Q Are there other physical tests or physical testing?

A The Audit Program and the program I'm associated with would encompass all of them.

Q Okay. And in the other physical -- excuse me. In the other chemical testing area, are there groups within that area?

A There were two employees in another lab.

Q And how would you refer to those two employees if you wanted to refer to their group?

A Under the restructure that has not become official, the supervisor of that lab was referred to as the supervisor of the CPA Lab.

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Q And what does CPA stand for?

A Crop Protection Agents.

Q Crop Protection Agents.

And just to clarify, are you telling me that's the new term or that's the former term?

A That's the former term.

Q Maybe to make things clearer, this would be a good time for you to explain to me the restructure. It sounds as if there's been a recent restructure in your area; is that correct?

A Yes. We have had some people transfer. And in order to try to better meet the needs of our customers, the facility was restructured so that one group of people were responsible for the analytical and physical testing performed and another group was responsible for field type operations outside of the facility.

Q Is that the -- is that how it will be structured now?

A Yes.

Q When you say some people were transferred, is that a reduction in the numbers in your department then?

A No. A gentleman bid on a higher job and accepted it.

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Q Will he be replaced?

A He has been replaced.

Q Could you distinguish for me analytical and physical testing or define analytical and physical testing? Are they two different things?

MR. NUNLEY: Objection. That's more than compound.

Do you mean generically speaking or as -- from a program or an organizational standpoint?

BY MS. BRECKENRIDGE:

Q I'm trying to, before we start our in-depth discussion of what you do in the department, I'm trying to distinguish for myself between analytical testing and physical testing. Is there a way to characterize analytical testing?

MR. NUNLEY: Again, from an organization chart standpoint or from a function standpoint?

BY MS. BRECKENRIDGE:

Q Are there certain tests you refer to as analytical tests?

A Yes.

Q What would those tests be?

A Typically those would be tests that used analytical instrumentation-type instruments to perform those tests as opposed to large, more

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equipment-type instruments.

Q What types of analytical instrumentation would be used in the course of analytical tests?

A We have an alp kem instrument.

Q Is it A-L-P?

A K-E-M.

Q Do you use any other instruments in the course of analytical testing?

A Yes. We have a Leco instrument.

Q Could you please spell that?

A L-E-C-O.

We have an X-ray instrument, and the CPA Lab has HPLC's and a GC.

Q Would the CPA Lab be the Crop Protection area?

A That's correct.

Q Does CPA stand for Crop Protection area?

A Crop Protection Agents.

Q Agents.

And does CPA Lab use any instruments other than HPLC?

A The GC.

Q And the G. C.

Are physical tests different than analytical tests?

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A Yes.

Q Could you tell me what types of physical tests would be conducted within your department?

A Size measurement, stem content, and OV measurements, oven volatiles.

Q And what types of instrumentation would be used for these physical tests?

A Sieve shakers, CST machines, and OV ovens.

Q What type -- the other type of test you mentioned was field tests. Could you tell me what type of field tests would be conducted by your department?

A Members of those groups go out to vendor physical testing labs and inspect their test equipment and the procedures that they're using to collect their data to insure that they are following procedure and that, that their equipment meets specifications.

Q Prior to the restructuring of your department, did it have another, a different name?

A No.

Q How many people are within the Analytical and Physical Testing area?

A I don't know. I'm going to have to try

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to count them. I'm not for sure. Hang on just a second.

I think we have 15 salaried employees and I believe we have eight hourly employees.

Q Can you categorize the employees of that, of the Analytical and Physical Testing area by job type?

A Yes.

Q Could you tell me what job types are included in that area?

A Typically the hourly personnel do the physical, the size, the stem testing, and they operate a small rotary conditioner, dryer and tobacco cutter.

Q Would they be known as technicians?

A I think they are referred to as Manufacturing Technicians 1, MT-1's.

Q And among the salaried employees in the Analytical and Physical Testing area, what jobs are there?

A We have technicians, analysts and supervision.

Q Do you know how many employees are employed in the physical test area -- oh, that includes the Physical Testing area; is that correct?

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A That was the total for the facility.

Q And then do you know how many employees are employed in the other Chemical Testing area?

A That was the total for the whole facility.

Q Oh, I see. Excuse me.

Do you do any work in the other Chemical Testing area?

A No, ma'am.

Q Have you ever been employed in that area?

A No. Although with this restructure I will be responsible for the efficiency of those activities.

Q Who do you report to, Mr. Grizzell?

A Mr. Frank Owen.

Q And what is Mr. Owen's title?

A He's a manager, but I don't really know what his official title is.

Q What is Mr. Owen's area of responsibility?

MR. NUNLEY: Objection; foundation.

BY MS. BRECKENRIDGE:

Q Do you know what Mr. Grizzell's -- what Mr. Owen's area of responsibility is?

A He is responsible for all activities that

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are being performed at the TQAF.

Q Do you know who Mr. Owen reports to?

A Yes.

Q Who does Mr. Owen report to?

A Mr. Tony French.

Q And do you know what Mr. French's title is?

A I'm not sure. I think it's something like general manager.

Q Do you know if Mr. French is general manager of a particular area?

A He has the responsibility for TQAF and the Tobacco Processing Group.

Q Are you aware of any other areas of responsibility for Mr. French?

A No, I'm not.

Q Do you know who Mr. French reports to?

A Mr. Billy Riggin.

Q And do you know what Mr. Billy Riggin's title is?

A Vice president of the Leaf Department.

Q Do you know who Mr. Riggin reports to?

A I can't recall the guy's name. I'm sorry, I don't recall his name.

Q Do you know his title?

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A He's a vice president of Manufacturing.

Q And up the line from the vice president of Manufacturing, do you know who the vice president of Manufacturing would report to?

A He reports to Mr. David Milby.

Q Mr. Grizzell, do you have employees who report to you?

A Yes.

Q How many employees report to you?

A Two.

Q And who are those employees?

A The analytical testing supervisor and the physical testing supervisor.

Q And who would the -- who is the analytical testing supervisor?

A Miss Kathy McNeeley.

Q And could you please tell me the name of the physical testing supervisor?

A Mr. Art Comer.

Q Where is the analytical -- is there an analytical and physical testing laboratory?

A Yes.

Q Where is that located?

A In TQAF.

Q And physically where is TQAF located?

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A 2217 Everette Street in Richmond.

Q Is that an office building?

A It's a combination of office and laboratory.

Q Is that a processing plant or a manufacturing plant for Philip Morris?

A No.

Q Is the analytical -- what labs are located at 2217 Everette Street?

A They are commonly referred to as the analytical labs, which lumps everything except for the CPA Lab is commonly referred to as analytical labs.

Q And when you say everything except the CPA Lab, do you mean everything with the -- within the Analytical and Testing area?

A (Deponent nodding head.)

Q Are there other labs that don't fall within --

MR. NUNLEY: I'm sorry, you want to get a verbal response.

MS. BRECKENRIDGE: Yes. Thank you, Mr. Nunley.

BY MS. BRECKENRIDGE:

Q Are there other labs located at 2217

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Everette Street which don't fall within the Analytical and Testing area?

A The Physical Testing labs.

Q Where are the Physical Testing labs located?

A They're also at TQAF.

Q At the TQAF site.

Then you have Analytical and Testing labs and the Physical Testing labs. Are there any other testing labs at TQAF site?

A That's, that's complete.

Q Do you know what other labs are located at Philip Morris in Richmond?

MR. NUNLEY: Objection; foundation.

BY MS. BRECKENRIDGE:

Q I'm sorry, I don't know if your lawyer told you, but when your lawyers object, if you understand the question, unless they instruct you otherwise, you must answer.

Do you understand my question?

A I know there are lots of, lots at RTX, but what the names of them are, I would not be able to tell you.

Q Okay. Would you consider the TQAF labs manufacturing labs?

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A I would consider them quality assurance labs.

Q At Philip Morris - Richmond in their R & D labs, quality assurance labs, do you know of any other laboratories at Philip Morris in Richmond?

A I think it's either quality assurance or R & D.

Q Are there any quality assurance laboratories other than the ones we have mentioned so far today?

A Yes.

Q Okay. Where would other quality assurance labs be located?

A They have some quality assurance laboratories at the Operations Center, the Manufacturing Center, and probably at all locations that would require some type of testing to insure quality of the product.

Q Do you know, are there any other labs within Philip Morris which do the work your area does?

MR. NUNLEY: Objection as to form.

A Nobody that does the whole suite.

BY MS. BRECKENRIDGE:

Q Are there other labs within Philip Morris

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which do part of the testing that your area does?

A Yes.

Q And what labs would those be, if you know?

A The PTL Lab has capability of doing some of the testing, same testing that we do, and the Analytical Research Group in R & D has a Chemical Testing section that does or capable of doing the same things that we do from the physical -- from the analytical testing standpoint.

Q Do you, yourself, do any work with the PTL, Product Testing Laboratory?

MR. NUNLEY: Objection as to form. I mean, what do you mean does he do any work with them?

BY MS. BRECKENRIDGE:

Q Do you understand the question?

A I need a little bit of your definition of --

Q Do you have contact with the PTL?

A They provide some of our testing for us.

Q Do you have other contacts with the Product Testing Lab?

A I know a lot of the people that's there, that work there, and talk with people from time to time on a personal basis.

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Q Do you collaborate on projects with the PTL at any time?

A The -- I believe the only time that I can really think of is when we are trying to evaluate equipment or if somebody is experiencing problem with some instrumentation, it would be a common occurrence to call somebody at another location that has that same instrumentation and say, I'm having some problems, have you ever had these problems or could you give us some insight about how to bring the instrument back into normal operation.

Q Do you have any contacts with the Analytical Research Lab in R & D?

A That would be the very same category of that group as the other one.

Q Does the Analytical Research Laboratory of R & D conduct any testing for your area?

A No.

Q What types of tests does the Product Testing Lab conduct for your area?

A They perform the smoking test for us.

Q Do they -- does the PTL conduct its smoking test for your area on a regular basis?

A Yes.

Q Can you list for me the types of tests

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that are conducted in the Analytical and Physical Testing area?

MR. NUNLEY: Objection; compound.

BY MS. BRECKENRIDGE:

Q Can you list for me the types of tests that are done in the Analytical Testing area?

A At TQAF?

Q At TQAF, yes, sir.

A Yes. Would you like me to?

Q Thank you. Yes.

A Total alkaloids, total reducing sugars, soluble ammonia, nitrate nitrogen.

Q Can I stop you on that one. Is it nitrate, A-T-E?

A That's correct.

Q Thank you. Just want to make sure our record was accurate.

A Total nitrogen and elemental analysis.

Q What is elemental analysis?

A An example, magnesium, silicon, phosphorous, sulfur. How many is that? Let me go back and count here. I typically don't break those out. Potassium and calcium.

Q Could you please tell me what physical tests TQAF Physical Testing area conducts?

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A They do size testing on strip tobaccos, stem content, OV, oven volatile analysis, and cigarette weight selection.

Q Mr. Grizzell, does the TQAF Analytical and Physical Test area support certain departments of Philip Morris?

A The Leaf Department.

Q Is it accurate to say that the material your area does testing on comes only from the Leaf Department then?

A That's correct.

Q Are there certain areas within the Leaf Department which sends you work?

MR. NUNLEY: Objection as to form.

A Yeah, could you expound just a little bit.

BY MS. BRECKENRIDGE:

Q Yeah. Where does your work come from within the Leaf Department?

MR. NUNLEY: You mean, I'm sorry, the samples or what?

BY MS. BRECKENRIDGE:

Q I'll explain what I'm trying to elicit from you. I don't know how the Leaf Department is organized.

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Does your work come from particular areas in the Leaf Department or does it just come from the Leaf Department at large?

MR. NUNLEY: Objection; vague.

A Actually most of the samples are for the Leaf Department but they come from where the tobacco is. I mean, the Leaf Department is, is more of an office area so there is no tobacco samples there.

BY MS. BRECKENRIDGE:

Q Do you know where your tobacco samples come from?

A They come from various locations depending on the submitters.

Q What would the various locations be?

A The Audit Testing is performed on tobaccos that have been -- had the stem part of the tobacco leaf removed. So they typically come from containers that have passed through stemmeries.

Q Are there other areas that the materials you test come from?

A The Agronomy group would submit samples from various locations.

Q Are there other places where your samples come from?

A The Blending group or the Buying group

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could send samples from lots of tobacco that they were interested in purchasing.

Q Are there other areas your samples come from?

A I think that covers about all the submitters that -- oh, one other location I did forget. Export Blended Strip.

Q What is the function of the TQAF Department?

MR. NUNLEY: Objection.

A We used to be in Quality Assurance. Quality assurance is really our function.

BY MS. BRECKENRIDGE:

Q Are you responsible for the quality assurance of something in particular?

A It is an internal measurement of particularly how well the stemmeries are performing their jobs of removing the stem from tobacco without over-damaging the leaf.

Q Beyond ensuring the quality of stemmery tobacco, do you have other areas of quality which your department is responsible for?

A It gives an historical measure of the routine chemical testing that's performed on each crop of tobacco.

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Q Are there any other areas of quality for which your department is responsible?

A We support the Agronomy group in industry work for ensuring that new tobacco varieties meet minimum standards.

Q Any other areas of quality for which you're --

A I believe that's pretty well complete.

Q Mr. Grizzell, you referred to routine chemical testing on tobacco. Is there a particular battery of tests which you would consider composing the routine chemical testing?

A The, the list of analytical testing that I just gave you represents routine tests.

Q And when you say "routine tests," does that mean that those tests are conducted on every lot of tobacco?

A It means that that testing is available to be analyzed every day. You wouldn't have to go in and set up instrumentation in and over three- or four-day period before you could ever start testing samples.

Q How does your department determine which lots of tobacco to conduct the routine testing on?

A Generally speaking, the first run of a

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grade of tobacco from a stemmery is sent for a routine chemical analysis.

Q The first grade?

A The first run.

Q Run?

A Of each grade.

Q And is that the first run of a particular purchase?

MR. NUNLEY: Objection as to foundation.

A Of a grade.

BY MS. BRECKENRIDGE:

Q What does "grade" refer to?

A That's the identification that's on the tobacco sample when we receive it.

Q How big would a tobacco sample which your department received be?

A Routine chemical analysis samples are generally in the neighborhood of 200 grams.

Q Could you translate that to pounds --

A About a half pound.

Q -- so I could picture it.

And that sample would be sent to you by one of the departments you mentioned earlier?

A Actually that would be sent to us directly from the stemmery that's, that's processing

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that tobacco.

Q Mr. Grizzell, I would like to go down the list of tests that you recited and ask you about the nature of the test and exactly what is tested.

I'm going to start with analytical testing. And first test you mentioned was the test for total alkaloids. What would be -- what samples would you test for total alkaloids?

A The early season, the first run sample that we just spoke of, and TLA samples.

Q What are the TLA samples?

A Tobacco lot analysis samples.

Q And what does that refer to?

A That's just the name of the samples. I mean tobacco lot analysis.

Q Okay. Where did the tobacco lot analysis samples come from?

A They are process, process blend samples.

Q Do they come from a particular department?

A They come from primaries, sheet plants and stem plants.

Q What tests are conducted on the tobacco lot analysis samples or -- I'm sorry.

A Total alkaloids, total reducing sugars,

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soluble ammonia and nitrate nitrogen.

Q Is the purpose of the tobacco lot analysis sample tests different from the routine testing that you do, do you know?

MR. NUNLEY: Objection; foundation.

A I really don't know. We -- this program was set up and established when I came in and we follow the type of sample gets this type of testing and it's like a grocery list.

BY MS. BRECKENRIDGE:

Q Okay. Does that mean that this testing has been conducted in your department for at least nine years?

A Yes.

Q Is this testing still being conducted today?

A Yes.

Q Has the frequency of the testing changed over the nine years?

A Yes.

Q And has that frequency changed this year, within the last year?

A Yes.

Q How frequently were these tests conducted prior to the recent change?

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A We started doing or they started doing before I was there one per every 500 containers packed. However, they couldn't keep up with that pace, so they had to start reducing the number of -- testing the number of samples that were tested.

Q Do you know how long prior to your arrival in the department these tests were conducted, how many years?

A I think they started doing the testing in '87.

MR. NUNLEY: Mrs. Breckenridge, there's a point of clarification that I think will make the record clear. I'm happy to make it if you want me to, but --

MS. BRECKENRIDGE: Go ahead.

MR. NUNLEY: You asked him about frequency changes. I think there will be protocol change, too, that you may want to.

MS. BRECKENRIDGE: Well, I'll get into that. All I'm just trying to --

MR. NUNLEY: I don't want the record to be incomplete about that.

MS. BRECKENRIDGE: Thank you.

BY MS. BRECKENRIDGE:

Q So when the department couldn't keep up

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with the frequency testing every -- was it every lot, is that how you described it?

A Every 500.

Q Every 500. Excuse me.

The frequency was reduced. And how often were samples tested then?

A Every thousand.

Q And how long was that rate kept up?

A Probably until late '95, early '96.

Q Was there a rate change in late '95 or early '96 then, a frequency change?

A Yes.

Q And what did the frequency change to?

A The whole program was overhauled.

Q Could you explain the overhaul to me?

A They did a kind of a validity check on the TLA results versus an actual semiworks production run from the very same containers, and the results of the TLA data were not close enough to the actual results they got from the production run to justify the expense of doing the testing even at the thousand container level.

Q Okay. Let's talk about that for a minute.

What was the purpose of the TLA test? It

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sounds as if it was predictive. Is that accurate?

MR. NUNLEY: Objection; foundation.

BY MS. BRECKENRIDGE:

Q Do you know what the purpose of the TLA sampling was?

A I was told that it was a tool for the blenders.

Q And do you know what type of tool?

A I really -- we did not do any work with the blenders other than making sure that the analytical results were provided to them.

Q Who were you reporting the TLA results to?

A The Blending group in the Leaf Department.

Q Did the TLA sampling process generate certain reports?

A Everything was captured in computer.

Q Was the data that was captured in the computer captured automatically by the equipment or instruments?

A It was a combination. Some of it was automatic, exactly, others required manual entry.

Q After you ran a tobacco lot analysis, would a report be automatically generated?

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A No.

Q Could a report be generated?

MR. NUNLEY: Objection; foundation.

BY MS. BRECKENRIDGE:

Q Do you know?

A Well, I mean, it could have, but the system wasn't set up for it to be hard copy reports.

Q Okay. How did you report the information to the Blending group of the Leaf Department?

A When all testing was completed and we were confident that the data was accurate as valid results, when that data was approved, it automatically was downloaded into a database that the Blending people owned, the blending Group owned. That was the data reporting.

Q Okay. When you say when that data was "proved"?

A Approved.

Q Approved. Okay.

Who would approve the data?

A I did.

Q Okay. And what criteria did you use for approving the data?

A Really there was no hard, hard and fast criteria. It was things such as OV's were taken at

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several different locations and you would want to make sure that those OV levels were comparable to each other.

Q If the OV levels were not comparable to each other, what would that indicate to you?

A It would indicate that you needed to recheck some data to try to determine was it an error in a test method or was it, in fact, a difference.

Q Did you have set criteria for rejecting data?

A Typically the only thing that we would reject data for was if the, the cigarette weight was so far off that the cigarette firmness was either too hard or too soft.

Q Would your department ever make the determination to reject the tobacco, itself?

A No.

Q Was your only responsibility for this sample to evaluate certain parameters that you were asked to test for?

A And maybe evaluate is not even the right word. To insure.

Q Measure?

A Measure, to insure that what we measured was accurate to the best of our knowledge.

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Q I'm sorry. Were you measuring for accuracy or were you measuring for certain parameters?

MR. NUNLEY: Objection; vague.

BY MS. BRECKENRIDGE:

Q I'll restate my question because Mr. Nunley's right, that is vague.

Were you measuring the tobacco to insure that it reached a certain alkaloid level, for instance?

A No.

Q Were you measuring the tobacco to determine what its alkaloid level was, for instance?

A That's correct.

Q Okay. When the TLA program was overhauled in late '95 or early '96, was it abandoned?

A No. It was just the grade testing was discontinued.

Q The grade testing was discontinued. What testing continued?

A The process blend testing continued.

Q And how are those two tests different?

A It reduced the number of samples we're currently doing about a seventh of the work, the

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number of samples that we prior -- we were doing prior to that.

Q Has the TLA testing process changed since the overhaul you have just described?

A No.

Q I would like to go back and resume our -- my questioning regarding the tests, the analytical testing that your department conducts.

You started with the total alkaloid test, and I believe your testimony was that your department tests the early season first run samples and TLA samples.

Are there any other samples that are -- you conduct a total alkaloid test for?

A Export blend samples. We provide support to the Agronomy group by testing tobacco samples from seed companies to help them in their quality improvement endeavors.

Q Is the Agronomy group part of the Leaf Department?

A Yes, ma'am.

Q Are you able to identify all of the different areas of the Leaf Department?

MR. NUNLEY: Objection; foundation.

A I don't know everybody in the Leaf

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Department to be able to say, you know, this person, this is what this person does, no.

BY MS. BRECKENRIDGE:

Q I'm just wondering, can you tell me the broad areas of accountability under the Leaf Department? There's the Agronomy group it sounds as if is one.

A Blending, Procurement, and I'm not real sure what they call the other group, Administration.

Q Okay. Any others that you're aware of?

A Other than the group that we are in, we are, you know, part of Leaf.

Q Uh-huh. How is the total alkaloid test conducted?

A We use an alp kem instrument to measure that, and our instrument actually is set up as a four-channel instrument.

Q Could you describe to me what you mean by "four-channel instrument"?

A The sample is -- the equipment is used to measure total alkaloids, total reducing sugars, soluble ammonia and nitrate nitrogen.

Q Does the four channels refer to the fact that you're testing for all four of these entities at once?

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A That's correct.

Q Can you test for one without the other?

A You can, but then you -- the, the computer that controls the equipment is, is looking for your peaks to start coming off and it's, it's much easier to run all four channels than to try to start faking, you know, try to start getting the computer to think that everything is working properly when you aren't running the other channels.

Q I see.

A So routinely we would typically, we would run all channels regardless of whether it was requested.

Q So is this a computer system then, the alp kem?

A It's just, it's a computer front end. You tell, you know, you put in the computer how many samples you're going to run and, you know, you start out with your standards, and you're, you know, you have to identify every sample on your run to the computer so that it kind of knows when it goes through and does its statistical work on the peaks how to return the results to you so that you can identify which sample is which.

Q So is the computer, itself, recording

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data as a result of the tests?

A That's correct.

MS. BRECKENRIDGE: I would like to take a break now, if you -- just five minutes.

MR. NUNLEY: Sure. That's fine.

(Recess)

BY MS. BRECKENRIDGE:

Q Mr. Grizzell, we were talking about the total alkaloid test in the process with the alp kem instrument. Are there any other instruments that are used for the total alkaloid test?

A That's the only instrument that we use.

Q Would you run a total alkaloid test every day in your area?

A The equipment is used essentially every day, maybe not, you know, every five days a week every month, but basically speaking the, the -- those four analyses are performed essentially daily.

Q When a sample comes in from the Leaf Department, are you -- do you receive direction or instructions with the sample to conduct particular tests?

A The routine stuff that comes in, it's just the samples are identified, but the common knowledge is this, this is what this sample is and

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you run the routine analysis on it.

Q Okay. After the total alkaloid test is run -- and by "total alkaloid test," I'm actually referring to the whole collection of four tests that are run at the same time?

A We would refer to that as the routine, you know, routine testing.

Q Routine testing. After the routine testing is done, is a report generated?

A For the early season stuff. Anything except for TLA typically is reported on hard copy memos.

Q Anything other than TLA did you say?

A Yes.

Q Do the hard, hard copy memos have a name?

A I don't even know if they say Routine Chemical Analysis or not. It's just the typical little form, interoffice memo, to, from, analytical results or something. They probably have a little bit different title.

Q Are they generated daily or by test?

A It's by request. So typically it would not be daily but it would be, you know, as the testing is completed or when the testing is completed on those samples and we are fairly confident that all

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of our data is valid, then within a day of that we would hope that that, that data could be reported.

Q Do you have responsibility for determining whether your data is valid?

A I don't right now. Well, ultimately right now but I am not the person right now actually looking at the data from each request to insure validity.

Q Who does look at the data now?

A That's kind of been in a state of fiasco for the last few months with this reorganization and shifting of personnel. We have had our statistical, our statistical technicians have helped to do that. We have an analyst that is in charge of data reporting that has taken the data from the stack tax to report and our analytical testing supervisor has also helped in that fashion.

Q And all of those people are within the Analytical and Physical Testing areas?

A Yes.

Q Who issues the memo?

A Either the, the data analysis analysts or the chemical or the analytical testing supervisor.

Q And who's the memo sent to?

A The submitter, whoever submitted the

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work.

Q Does your department retain a copy of the memorandum?

A Yes. And the results would continue to stay on the computer system. When a hard copy is generated, the data still resides and could be recreated from the computer.

Q Do you know what is done with the data once it is reported to the Leaf Department?

MR. NUNLEY: Objection; foundation.

A I really don't.

BY MS. BRECKENRIDGE:

Q Do you know if the data is used to accept or reject lots of tobacco?

MR. NUNLEY: Same objection.

A I really don't know.

BY MS. BRECKENRIDGE:

Q Once your department reports the data to the submitting group, is your responsibility for the sample ended?

A That's -- yes, that's correct.

Q Let me ask you this question about the alkaloid testing: Are you testing to measure the alkaloids rather than testing for a particular alkaloid level?

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MR. NUNLEY: Objection. Didn't you, didn't you ask --

BY MS. BRECKENRIDGE:

Q I apologize if I have asked it. I thought I asked that for TLA tests. Mr. Nunley may be right. I might have asked it for this. I don't remember.

MR. NUNLEY: I'm sorry, I thought we were talking about TLA now.

BY MS. BRECKENRIDGE:

Q Well, we're talking about routine analytical testing in Analytical and Testing area. Is that what you're talking about?

A Well, it really doesn't matter. Any time we do tests, it's for what's there and not for a specific level.

Q Is that true for all of the tests which your department conducts?

A Yes.

Q Let me ask it, is it accurate to say you don't have specific acceptance or rejection levels for any of the tests you conduct?

A That's correct.

Q Just so I can clarify, the routine chemical testing that you're referring to includes

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the total alkaloid testing, the total reducing sugars testing, the -- is it the nitrate ammonia testing?

A It's soluble ammonia.

Q I'm sorry.

A And nitrate nitrogen.

Q Mr. Grizzell, do you know anything about the levels of total -- level of total alkaloids which makes a tobacco desirable to Philip Morris?

A No, I don't.

Q Do you know anything about the level of reducing sugars which would make tobacco either acceptable or desirable to Philip Morris?

A No.

Q Do you know anything about the level of soluble ammonia which would make tobacco desirable to Philip Morris?

A No.

Q Do you know anything about the level of nitrate nitrogen which would make tobacco desirable to Philip Morris?

A No.

Q Is the total nitrogen -- excuse me. Is the nitrogen test separate from the routine chemical analysis which is conducted?

A That's part of the routine test. It's

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performed on a different instrument, though. That's the Leco instrument that we spoke of a little earlier.

Q Is there a separate report or memorandum generated as a result of the total nitrogen test?

A No. The, the memo reports everything that was analyzed on the tobacco.

Q How is the elemental analysis conducted?

A It's an X-ray technique. The tobacco is ground through a Wally mill and then it's put in an impact mill to further reduce the particle size of the, of the tobacco. The tobacco is then dried in an oven for three hours to get it to a dry weight basis, and pellet is pressed from the tobacco and the instrument has a little circular carousel on the top of it that has ten positions in it. And you can load ten different pellets on the carousel. And once the instrument starts running, it takes approximately an hour and eight minutes to run those, to analyze those ten positions. It's only one position in it that actually reads it. So the carousel has to rotate around and --

Q Oh, I see.

A When it's in the position that it's actually being read with the X-ray, the pellet,

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itself, rotates so that you aren't looking at just one little spot of the pellet.

Q Just out of curiosity, how big is the pellet?

A It's, it's about the size of 50-cent piece after it's been pressed.

Q Now, is the element -- are the results of the elemental analysis reported on a memorandum?

A Yes.

Q It's in memorandum?

A Yes, ma'am.

Q Are there any reports as a result of this routine testing -- and by "routine testing" I'm including all of the tests conducted by the analytical area on a regular basis -- are there any reports generated on a daily, monthly, weekly or annual basis?

A Typically when the work of a request is completed, whether it has one sample on it or, you know, 25 samples on it, when all of the work on each sample has been completed and that data is reported, that's the last that we'll do with that request.

Q Do you have an annual report of all samples tested?

MR. NUNLEY: Objection. I'm a little

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confused. Are we in subset now or are you just talking TLA routine analytical?

MS. BRECKENRIDGE: I'm talking about routine chemical analysis.

MR. NUNLEY: Overall?

MS. BRECKENRIDGE: Overall.

MR. NUNLEY: We started out I thought on the submissions, certain submissions that were made, but you're just --

MS. BRECKENRIDGE: Well, we're talking now about the routine chemical analysis that the department goes through when test samples come from the Leaf Department.

Is that what you're talking about?

THE DEPONENT: Yes.

MR. NUNLEY: Okay.

BY MS. BRECKENRIDGE:

Q I'm just wondering is there an annual wrap-up of the data?

A No.

Q Does your department generate any sort of annual report regarding its work for the year?

A The audit function does that to the extent that they kind of rank all of the stemmeries to determine which stemmery ended up with the best

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particle size after the stem had been removed. 'So typically they will give that presentation to the processors that if a processor's coded so that one processor can't tell, you know, who, who, who they are on the sheet except for themselves. So they will identify them as, you know, 1-2-3 or A-B-C and tell each processor what number they are and they can see how they rank in perspective with the others in maintaining good sieve size and removing the, the right amount of stem.

Q And is that a physical test as opposed to analytical test?

A Yes.

Q I would like to ask you a few questions regarding the physical tests which are conducted by your department. You referred to an oven volatile test.

Can you tell me what you are testing for in an oven volatile test?

A Essentially it's the moisture of the tobacco. I think about all of our analytical results are corrected for moisture so they're all reported on a dry weight basis. So you have to know the moisture of each sample to be able to do that. And the reason that it's not called moisture samples that it's a

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graph metric procedure in that you weigh the tobacco up in a OV dish, place it inside an OV oven for three hours. At the end of three hours you take a sample out, let it cool in desiccator and weigh it back, and that difference in weight is proportional to how much, you know, what it lost. But, in fact, it loses things other than, than moisture. So technically you really can't call it moisture but that's really what most people are looking for from the test is, is, you know, how much moisture was in the sample.

Q That's a good explanation.

Is it accurate to say then that the oven volatile test is a measurement of the volatiles?

A Anything that will evolve off of tobacco at a hundred degree centigrade in an oven for three hours, that's what the OV, oven volatile, that's --

Q Another physical test which you testified regarding earlier was the size measurement test. Can you tell me what's involved in the size measurement test?

A The sieve size is nothing more than spreading strip tobacco out on a feed belt and the screen size of the top one is one inch. So as the tobacco vibrates across the screen, it's -- the screen's about, I don't know, maybe two feet wide,

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five feet long. And during the vibration of it, what you're trying to do is separate the different particle size of the tobacco. So anything that's larger than a one-inch size will stay on top of, of the No. 1 screen or the one-inch screen and be captured as a fraction to be weighed, and anything smaller than that will fall down on the half-inch screen. So then that same process will go and you will segregate the particle sizes of the tobacco, you know, all the way down.

Q And then the third physical test which you testified about earlier, was that the stem contact?

A Content.

Q Excuse me.

A Content.

Q Stem content test?

A Uh-huh.

Q Can you describe the stem content test for me, please?

A Yes. That's run on CST and they use air velocities to separate the lamina portion of the tobacco from the stem; that the stem particles are heavier and it's just enough air velocity to separate the two. And then you would measure how much stem is

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left in your product.

Q Now, the reporting for the oven volatile test and the size measurement and the stem content test, would that reporting be manual as opposed to computer-generated?

A It's some of both. That's some of the information that at the end of the year they really do a lot of presentational type work to pictorially show how, how successful the stemmeries are in removing the stem from the lamina part of the leaf.

Q Who are the results of the oven volatile test, the size measurement test and the stem content test reported to?

A It's reported to the tobacco coordinators, the Philip Morris people that are responsible for monitoring those operations in the vendor stemmeries, and it's reported back to the vendor's stemmery Q. A. personnel, themselves, so they can see what TQAF numbers are as opposed to the numbers that were generated in their own facilities.

Q Would the results be reported in memorandum form?

A Yes.

Q Are there any, any reports which are generated as a result of those tests?

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A I think all the data is put into hard copy in a memo type thing and then at the end of the year they kind of roll the individual results up into the presentational format.

Q Are the tobacco coordinators part of the Leaf Department?

A Yes. They're in the same group that we're in. Just have a different responsibility.

Q Mr. Grizzell, within the department do you have manuals or guidelines which govern these tests?

A Yes, ma'am.

Q What sort of manuals or guidelines would you use in conducting these tests?

A It's a book of procedures that, like, sieve testing has a procedure that specifies the size of the sample and specifies the conditions under which that testing should be performed.

Q Are the analytical and physical testing procedures both included in this book?

A For -- with internal to Philip Morris, yes, but the same procedures that are provided to the vendors to insure that they are doing our testing per our information, they only have the procedures with which they are in charge of performing. Everybody

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wouldn't get everything. It's --

Q Does your -- does the book of procedures have a title?

A Yes. The complete everything is in PPI. It's Policy Procedure Instructions, I think. I believe is what the PPI stand for.

Q Is the PPI specific to your department?

A It is specific to the testing being performed and not the site.

Q Are there other departments for which the PPI would be relevant?

MR. NUNLEY: Objection; foundation.

A Actually the PPI's are written by people in the QA Department.

BY MS. BRECKENRIDGE:

Q Is it accurate to say that there may be other departments which use the PPI?

A Yes.

Q Do you know what other departments use the PPI?

A They are controlled documents and anybody doing the testing for which is an official Philip Morris PPI should, in fact, be following those instructions.

Q Does the PPI have any sections on topics

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other than testing procedures?

A Do you mean like sample preparation?

Q Maybe if you looked at the table of contents of the PPI, is there a table of contents in the PPI?

A Uh-huh.

Q Can you tell me what the topics on the table of contents are?

A It would be like sample preparation, reagents necessary to perform the testing. Typically sources that you would, could get these reagents. It might even be specific -- they might even be specific down to the manufacturer of the instrumentation that is used for the testing. How much sample is required to do the test. I mean, these are just broad guidelines, but that's the kinds of things that are in the different category, you know, different sections.

Q What is a reagent?

A A reagent is chemicals necessary to perform the testing.

Q Are chemicals necessary to conduct certain tests within your department?

A Yes.

Q Which tests require additional chemicals?

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A Typically any analytical test requires chemicals.

Q Does the total alkaloid test involve the use of additional chemicals?

A Yes. The alp kem instrument, those four channels -- it's actually four different chemistries. It's a separate chemistry that's going through each channel.

Q And the chemicals which are used in the course of testing in your department, would they only be used on the tobacco sample as opposed to the whole tobacco lot?

A That is correct. It's just the -- and actually it's, you know, it's really not on the sample, itself. The sample has already been extracted into a five percent for this particular test, a five percent acetic acid solution, and it's put on a shaker and has been shaked for 30 minutes. So it's the extract from that is all that it, that is being analyzed and not the tobacco, itself.

Q And when you say "this test," you're talking about the routine chemical tests?

A Well, specifically the alkaloid is the sugars, the total addition, soluble ammonia, nitrate nitrogen.

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Q Well, that does remind me of a question that I didn't ask, and maybe I should go through the individual tests.

For the total alkaloid test you have just described the form that the sample is in. Is the sample different for the reducing sugars test?

A No. It's -- those four, those four chemistries, that four channel, the sample preparation technique is the same for all of them.

Q Okay. For the elemental analysis, what form is the sample in?

A It's a pressed pellet.

Q Oh, you did describe that. I'm sorry.

And then for the total nitrogen test, what form?

A The total nitrogen is -- that sample is also the ground sample, is put into a tin capsule and dropped into an oven and is combusted at 950 degrees centigrade.

Q In the total nitrogen test then are you testing the smoke that is generated?

A It's not the smoke. It's the, the volatiles coming off of the combustion process. And there's a reference side that always is, that the machine knows what the reference side always is, and

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the sample side is, is the volatiles coming off the tobacco. And the difference between the sample side and the reference side is directly proportional to the amount of total nitrogen that's present in the tobacco.

Q Okay. Does your department conduct any smoke tests?

A No, ma'am.

Q Does your department send samples elsewhere --

A Yes.

Q -- to have smoke tests conducted.

Where do you send the samples?

A The Product Testing Laboratory.

Q Which samples do you send to the Product Testing Laboratory?

MR. NUNLEY: Objection.

BY MS. BRECKENRIDGE:

Q I haven't finished but, but maybe it's already objectionable.

What products -- what samples do you send to the Product Testing Laboratory for testing?

MR. NUNLEY: Objection.

A TLA samples.

BY MS. BRECKENRIDGE:

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H-I-G-H-L-Y C-O-N-F-I-D-E-N-T-I-A-L

Q Are there any other samples which you send to the Product Testing Laboratory for testing?

A No.

Q Do you know what smoke tests the PTL conducts on TLA sample?

MR. NUNLEY: Objection; foundation.

A Yes, but I don't know -- I can't describe in detail how you do those tests.

BY MS. BRECKENRIDGE:

Q Okay. Can you just identify for me by name the tests?

A TPM, nicotine, water, cigarette circumference, cigarette weight, puffs per cigarette, calibrated OV. There are more, but I really can't recall them right now. I haven't looked at that data for almost a year now so --

Q Are TLA samples still being sent to the PTL for smoke testing?

A The process blend samples, yes.

Q Was it your testimony earlier that the PTL, the Product Testing Laboratory, is a part of R & D?

A Yes.

Q Do you know which, which R & D department the PTL is a part of?

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H-I-G-H-L-Y C-O-N-F-I-D-E-N-T-I-A-L

MR. NUNLEY: Objection; foundation.

A I really don't know what division that they're in.

BY MS. BRECKENRIDGE:

Q Do you know why samples from your department would be sent to R & D department for testing?

MR. NUNLEY: Objection; foundation.

A That's the only place the testing is done.

BY MS. BRECKENRIDGE:

Q When you say "the only place the testing is done," is that the only place that you're aware of that smoke testing is done at Philip Morris?

A Yes. The QA Laboratory and the R & D Laboratory were combined a few years ago. Prior to that when, when we were in QA and QA had the facility to do it, all of this work was done within the QA Department.

Q Have you ever participated in the PTL smoke tests yourself?

A When I first came to the company I -- the major part of my job was performing routine maintenance on the mechanical smoking machines and also running, doing the operating the smoking

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machines.

Q How long ago would that have been?

A 1975 and probably up, up through 1976, about two years.

Q Was the smoking, was the smoke testing part of QA at the time?

A It was part of QA, but the laboratory I was in was in R & D.

Q Moving back up to the present time, when smoke testing is conducted in the PTL Lab on TLA samples, are the results reported back to your department?

A Yes.

Q What form are the results reported in?

A It's an automatic download of their computer system into ours.

Q Are the results then printed out?

A They appear in our computer system; will not print anything out until all testing is completed. And at that point it will print a listing of everything to be used for hopefully determining that all the data is accurate.

Q When you say hopefully all the data is accurate, are you responsible for reviewing the data for accuracy?

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A I was up until about a year ago.

Q Your department is still responsible for reviewing the data, someone within your department, for accuracy?

A Particularly ours with the thought being that what comes from PTL, they have reviewed their results and to the, to all the checks and balances in their testing, to the best of their knowledge it's accurate, so...

Q I'm sorry?

A So we don't have the expertise they have to evaluate their data.

Q Is the data which is downloaded from the PTL smoke tests to your system included in the memorandum which reports the results of your department's testing to the Leaf Department?

A That data is not reported on memo. That goes into the database.

Q Is the -- is that data which goes into the database ever reported?

A Typically, no. It would, it would -- you know, that's not the way the system was set up. The computer system really doesn't have a, a program to format reporting data.

Q What becomes of the data then?

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MR. NUNLEY: Objection; foundation.

A We -- our purpose is to put it in the database.

BY MS. BRECKENRIDGE:

Q So the data then remains in the database; is that accurate?

A That's correct.

Q How long does the data remain in the database, do you know?

A I, I don't know.

Q Do you know if it remains there forever?

MR. NUNLEY: Objection; speculation.

A I -- yeah, I would have to speculate.

BY MS. BRECKENRIDGE:

Q Do you know how long this has been the procedure, the downloading of the PTL smoke tests to your database?

A It was incorporated very quickly after the work started being performed. It was so manually taxing for somebody to manually enter data, in order to minimize data entry errors, it felt like that was something the computer should be doing.

Q And about how long ago was that?

A I would say at least by 19-, late 1987, early '88, that, that that was being done.

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Q Do you know if PTL, the PTL Department reports this data from the TLA samples smoke tests to anyone other than your department?

MR. NUNLEY: Objection; foundation.

A I really don't know.

BY MS. BRECKENRIDGE:

Q Do you have within your department -- I'm sorry, let me start over.

Is one of the criteria you use for determining the accuracy of the data from the PTL Department the level of any of the compounds tested for?

MR. NUNLEY: Objection as to form.

A OV and firmness they also analyze. So those are about -- those are the only two tests that are performed at both locations. So typically from a comparison standpoint, that's the only thing you could really look at and say these OV's don't match or, you know, we got this firmness on this sample and they got this firmness on the sample. It, it -- something doesn't look right. But that's about the only tests that are, you know, are performed that, you know, that you could really compare what they do versus what we do.

BY MS. BRECKENRIDGE:

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Q Do you ever look at the nicotine level and decide that that would be inaccurate?

A That's really hard to do because typically speaking we don't have enough samples of the same grade to compare, you know, one sample against the other. And to be able to, to say what those levels typically would be in a grade, I, I don't have anywhere near the kind of recall that that would require to, to know, you know, that kind of information. So, so we really are depending on those laboratories to, to review their results with the same level of detail that we would ours.

Q Is it safe to say then that you wouldn't look at the nicotine level, for example, and determine that it was too high or too low?

A Yes, I would not really know that.

Q Are there any other tests for which your department has responsibility that you delegate out to another department at Philip Morris?

A The making of the cigarettes, we, we do not have the capability of making the cigarettes.

Q Are there any other tests that you would have another department conduct for your department?

A No.

Q Other than the smoke test at PTL?

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A That's it.

Q Mr. Grizzell, is your department ever asked to participate in special projects from time to time?

A Yes.

Q Can you tell me what the nature of these special projects has been?

A Typically it is to be in a comparative study with, like, PTL and Analytical Research in that they would do round-robin testing to insure that, that all of our equipment is, is providing similar results.

Q Have -- is your department ever asked to test new products?

A No.

Q Is that a type of test that would take place in the PTL, do you know?

A I would assume, but that's just an assumption.

Q Have you ever been asked to test a sample for acetaldehyde?

MR. NUNLEY: Objection.

A I don't even -- I'm not familiar with the --

BY MS. BRECKENRIDGE:

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H-I-G-H-L-Y C-O-N-F-I-D-E-N-T-I-A-L

Q Have you ever been asked to test a sample for diammonium phosphate?

A No.

Q Have you ever been asked to test a sample for urea?

A No.

Q Have you ever been asked to test a sample for sodium carbonate?

A No.

Q Have you ever been asked to test a sample for ammonium carbonate?

A No.

Q Are your negative responses to this last series of questions based on your experiences in the Analytical and Physical Testing area?

A It's based -- well, I do recognize some, some of the testing, but we aren't capable of doing any of that testing.

Q And you're testifying regarding the Analytical and Physical Testing area?

A Uh-huh.

MR. NUNLEY: You want to --

A TQAF is not involved in, in any of that testing that you just -- that series of tests.

BY MS. BRECKENRIDGE:

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Q Okay. That clarifies it.

Let me clarify another area that I asked you about. I asked you about any guidelines which might be used by your department in conducting tests. You mentioned the Policy Procedure Instruction book.

Are there any other guidelines or manuals that you use in your work?

A We are trying to develop some good laboratory practices, but that's in its formative stages and would be more specific to our site as opposed to, you know, a PPI.

Q Are there any other manuals that you use or guidelines?

A Not for the testing side of it.

Q Are there any other manuals that you use for the non-testing side of it?

A Well, such things as administrative type duties, you know, how many weeks of vacation a person, you know, those kind of things, administrative end of it, how to solicit for vacation type, that kind of stuff.

Q Does your department have a document retention and destruction policy?

A We have document retention, yes.

Q Is that part -- is that the same as the

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overall Philip Morris document retention policy?

A Yes.

Q Do you have acc-, you, yourself, have access to that policy?

A Yes.

Q Does everyone in your department have access to that policy?

A We were told that we were all expected to comply to the letter of the policy.

Q Is there a particular person within your department responsible for compliance with the policy?

A Our secretary.

Q Who's that?

A Betty Barkum.

Q Is there a particular person in your department who's responsible for the organization of documents within your department? By "organization of documents," I mean, filing and retention of documents?

A Right now we don't have any common areas. Everybody is expected to maintain their own files.

Q Is there any central database for your department on those files?

MR. NUNLEY: Objection; vague.

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A Yeah.

MS. BRECKENRIDGE: That is vague.

BY MS. BRECKENRIDGE:

Q Is there any way, is there any index to the files, manual or computer index to the files that the individuals maintain in your department?

A All of our manual files are kept to the point that any coworker should be able to go into those files and readily determine, you know, be able to locate results that had been reported prior, you know, to the time of trying to find them. There are specific categories that everybody's files must fall in a category so that those categories would be consistent throughout the Leaf Department.

Q Who determines the categories, the Leaf Department file categories?

A I'm not real sure.

Q Is there a list of Leaf Department file categories?

A Yes.

Q Who receives that list?

A Betty Barkum distributed it to all of us at TQAF.

Q Can you recall any of the categories on, on the list of Leaf Department categories?

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A Well, it's, it's administrative. I think Audits is one of the categories, Policy and Procedure, TLA is a category.

Q Any other categories that you can recall?

A Well, they have a lot more, but another more closely related, calendars is a category. They have a lot of associated with Central Leaf, but we're not really, you know, in those areas and I can't really recall them.

Q Let me ask you this: Do you know if the categories relate to the categories on the re-, document retention schedule issued by Philip Morris?

A Yes. Each category maintains its own retention schedule.

Q Okay. And the retention schedules are actually written documents; is that correct?

A Yes. They send out -- they distribute, I guess it's, you know, every some time sequence they say, you know, it's now -- now it's time if your calendars that, you know, you should only have I believe it's two years on calendars when they send a memo out to say, you know, you need to update your records retention. Then if you have got any calendars older than two years, you need to, to dispose of them because two years is the policy.

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Q Okay.

A And I say I believe it's two years. I wasn't meaning to say --

Q All right. Mr. Grizzell, you have referred to audit function more than one time this morning. What is the audit function of your department?

A That is where those field people actually go out and audit the, the vendor's physical laboratories to insure that they are complying with the stipulations of the test requirements.

Q Mr. Grizzell, is all of the work conducted by your department conducted for Philip Morris - USA?

A Some of it could, in fact, be of benefit to Philip Morris - Europe also because in the stemmeries, the, when they go in and check to make sure that they have the right screens and are running the samples at the right, you know, the times across the, the sieve screens and all that, those stemmeries could, in fact, run some domestic tobacco that PME has purchased and they would also be assured that the test results generated on those tobaccos were performed on equipment that was configured properly.

Q When a sample comes into you, do you know

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if the sample -- by "you," I mean your department. When a sample comes into your department, do you know if the sample came from Philip Morris - USA or Philip Morris - Europe or Philip Morris International?

A Well, typically what would come into us would be either domestic samples or international samples for use in USA.

Q I see.

A You know, we would not be running doing our work for PME.

Q Have you had any contact with Philip Morris International?

MR. NUNLEY: Objection; vague.

BY MS. BRECKENRIDGE:

Q Have you ever done any work for Philip Morris International to your knowledge?

A Well, the export blend samples are -- that's -- those samples are going to be -- that -- those tobaccos are going to be sent to different countries, but we are doing the work at the request of domestic, you know, Leaf Department of Richmond people.

Q Okay.

A So, I mean, I don't know how you want to look at that. It's -- the tobaccos are going to be

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exported to other countries, but we are doing the testing at the request of the Leaf Department.

Q Have you, yourself, ever been employed by Philip Morris International?

A No, ma'am.

Q Do you know if there is a laboratory in Europe that conducts the same type of testing that the Analytical and Physical Testing area here does?

A I know from the physical side of it that, that they have done the physical testing for years, but I believe any analytical testing would be done at R & D. I'm not aware of a, an audit facility in Europe that, that does analytical and physical testing.

Q And would the analytical testing be conducted by R & D in Europe?

MR. NUNLEY: Objection; foundation.

A I would have to guess.

BY MS. BRECKENRIDGE:

Q You don't know?

A (Deponent shaking head.)

Q Are you familiar with INBIFO?

A Yesterday when I reviewed a document was -- I knew I had heard the word, but I didn't know what it was.

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Q Can you tell me the document you reviewed?

MR. NUNLEY: Objection. That, that calls for matters governed by the attorney-client work product privileges and I'll instruct him not to answer.

BY MS. BRECKENRIDGE:

Q Can you tell me if it was a document that you had received at another time?

MR. NUNLEY: Same objection.

A No.

MS. BRECKENRIDGE: We'll just go around this objection.

MR. NUNLEY: Well, in areas of attorney-client, please give me a chance to object.

MS. BRECKENRIDGE: Yes.

BY MS. BRECKENRIDGE:

Q All I'm trying to find out, have you had any professional contact with INBIFO in the course of your employment at Philip Morris? And I don't want to inquire into something that might be protected by that question.

MR. NUNLEY: You can answer that.

A No.

BY MS. BRECKENRIDGE:

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H-I-G-H-L-Y C-O-N-F-I-D-E-N-T-I-A-L

Q Mr. Grizzell, do you have any knowledge regarding testing of -- for nitrosamines in Philip Morris cigarettes?

A No, ma'am.

Q At any point in your career with Philip Morris have you been involved in the testing for nitrosamines in Philip Morris cigarettes?

A No, ma'am.

Q Mr. Grizzell, do you have any information concerning the pH level of Philip Morris products?

A Not products, but tobaccos.

Q Are you presently involved in the testing of the pH level?

A No, ma'am.

Q At some point in your career were you -- with Philip Morris were you involved in the testing of pH in tobacco?

A PH testing was part of the TLA program initially, but in the effort to try to keep up with the sample demands in the early days that we spoke of earlier, we discontinued that testing because the Blending group felt like that it was not a test that they needed.

Q Do you know when you discontinued the pH testing as part of the TLA program?

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A I would say probably somewhere around 1980 -- late 1988, early 1989, somewhere around that time frame.

Q Do you know why pH testing had been included as part of the TLA program initially?

A No, I don't know.

Q Was it just another test that your department was asked to conduct?

MR. NUNLEY: Objection. It's speculation.

A They were set up to do it when I got there.

BY MS. BRECKENRIDGE:

Q Mr. Grizzell, how long have you been with Philip Morris?

A Since 1975.

Q And what was your first job with Philip Morris?

A Smoking technician.

Q Had you ever worked for a tobacco company before that?

A No, ma'am.

Q Had you been in school before that?

A Yes.

Q Or -- what, what did you go to school

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for?

A I --

MR. NUNLEY: What did he go to school for? He couldn't stand to be at home.

BY MS. BRECKENRIDGE:

Q What did you study in school?

A I only had a year and a half of college before I ran out of money prior to starting my working career.

Q Been there.

A So I was not degreed when I came.

Q Did you study anything that related to your employment at Philip Morris?

A No. I was planning on majoring in business.

Q You said your first position was a smoking technician, and I believe you testified earlier that you stayed in that position for about two years?

A (Deponent nodding head.)

Q What department was the smoking technician position within?

A It's Cigarette Testing Services Division.

Q And what larger department was the Cigarette Testing Services Division within?

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H-I-G-H-L-Y C-O-N-F-I-D-E-N-T-I-A-L

A You know, I'm really not sure what it was. It was not Analytical Research. I really -- I don't know.

Q Do you remember who you reported to?

A Ed Kitcum was the manager of that group, and I reported to Kathleen Sanderson was my immediate supervisor.

Q What was your area of responsibility within the -- as a smoking technician in the Cigarette Testing Services Division?

A To do minor maintenance on the mechanical smoking machines and to actually operate those machines in the mechanical smoking.

Q Do you know what the function of the department, the Cigarette Testing Services Division, was?

MR. NUNLEY: Objection; foundation.

A It -- they had a lot of different things to try to do so --

BY MS. BRECKENRIDGE:

Q Do you know if there was an overall objective for the Department?

MR. NUNLEY: Objection; foundation.

A I really didn't. I was, I was pretty well isolated within that function of that group.

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H-I-G-H-L-Y C-O-N-F-I-D-E-N-T-I-A-L

BY MS. BRECKENRIDGE:

Q Do you know if the Cigarette Testing Services Division was testing tests -- excuse me. Let me start over.

Do you know if the Cigarette Testing Services Division in those years was testing commercial products for the market?

A Yes, I know that they were.

Q Were they testing R & D products, new products, do you know?

A I think they -- I believe they also did that, too, yes.

Q Can you -- were there any other categories of products they were testing, do you know?

A No, but I do remember that the emphasis on turn-around time seemed to be greatest on market pick-up samples.

Q Okay. Do you know if the Cigarette Testing Services Division was testing Philip Morris competitor products in those years?

A Yes.

Q After you left your position as smoking technician in Cigarette Testing Services Division, what was your next Philip Morris position?

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A It was still technician, but it was going out to the Richmond stemmery collecting samples for routine chemical analysis on incoming tobaccos.

Q What was involved in collecting samples?

A To actually take a container loose enough to obtain a, a core sample of the tobacco.

Q What department were you employed within at this time?

A The same department.

Q Did your title change?

A I think it might. I'm not real sure. The level didn't change. So if it changed, it was minor wording in front of the technician. I think it was still technician.

Q And you were still within the Cigarette Testing Services Division?

A Yes. At that time I was reporting to, you know, that group.

Q Okay. After you finished this position, what was your next position?

A They had another minor reorganization in that the group that I was currently in was collecting the samples and reporting the routine chemical results to the Leaf Department but were not performing the actual testing. So they moved the

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function I was performing and me over to the Analytical Research Division where the testing was actually being performed.

Q You call it the Analytical Research Division?

A Uh-huh.

Q Was the Cigarette Testing -- what larger department was the Cigarette Testing Services Division a part of?

A It was not part of Research, and I'll be honest with you, I really can't --

Q Okay.

A -- can't recall.

Q Do you know what larger Philip Morris department the Analytical Research Division was within?

A Well, the Analytical Research Division was the bigger, the bigger division. It was -- I think now they might be calling it the Chemical Testing Group or something. Was the actual small group that I was in.

Q Was it part of R & D?

A Yes.

Q What was your function in the Analytical Research Division when you first arrived there?

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A Basically the very same function that I was doing in the other group, you know, getting the, collecting the samples from Richmond stemmery, coding those samples to be submitted for an analysis, and to, to actually form the interoffice memo and report the data that was generated on those samples back to the Leaf Department.

Q And how long did you perform that job?

A I did that for R & D until I went into a cross-training program in Leaf, I guess in 19-, probably 1986.

Q And what was the cross-training program in Leaf?

A I was able to work in the, the Leaf Administration or Logistical area.

Q And what was your function in the Leaf Department?

A Basically administrative in, in having containers of tobacco moved from one location to another.

Q How long did you stay in that position?

A About 18 months.

Q And what was your next position?

A The position I'm in now currently.

Q Mr. Grizzell, have you ever been Philip

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Morris' representative in any professional organization?

A Not really a representative, but I have had to -- well, asked to attend meetings when members of the Agronomy group were not available to attend.

Q Have you ever given any speeches in connection with your work for Philip Morris?

A No.

Q Mr. Grizzell, earlier today you testified that one of the functions of the TQAF was to support the Agronomy group in their development of new tobacco; is that accurate?

A Improvement efforts working with small farmers or other countries and also with the industry as a whole.

Q Have you, yourself, been involved in that work?

A Just to provide chemical results to support those activities.

Q And what would the support entail?

A A seed company might send Dale Hill, you know, "X" number of samples and see if he could have total alkaloid, total reducing sugars, total nitrogen run on the tobaccos.

Q Would -- have you ever been involved in

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attempting to develop tobacco plants to meet certain requirements?

A I'm not a geneticist or anything like that, no.

Q Do you know if that would be a function of TQAF?

MR. NUNLEY: Objection; speculation.

A I don't believe anybody in our facility would have anywhere near the knowledge to even attempt to try to do anything like that.

BY MS. BRECKENRIDGE:

Q I'm sorry, is it your understanding that that would be part of the Agronomy group's function?

MR. NUNLEY: Objection; foundation.

A It would have to be.

BY MS. BRECKENRIDGE:

Q Is the Agronomy group part of the Leaf Department?

A Yes.

MS. BRECKENRIDGE: If we could go off the record for a minute.

(Discussion off the record.)

(Recess)

BY MS. BRECKENRIDGE:

Q Mr. Grizzell, I just want to ask you a

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few follow-up and clarifying questions and then we can conclude here today.

You testified earlier that you are a group leader in your department. What sort of responsibilities go along with being a group leader?

A I'm not -- it's so new, I'm not real sure what the difference is. Right now the biggest difference I see is I have kind of picked up little bit more responsibility on the physical testing end of it.

Q And when you say "more responsibility," what do you mean by more responsibility for physical testing?

A I'm not back there on a daily basis actually, you know, telling people how to do their job or that they aren't, you know, they aren't following instructions completely. More from a, This work needs to get done, make sure that it's done, and prior to that I was really not associated with the, the audit side of it at all.

Q And what was your title prior to group leader?

A Section supervisor, TLA.

Q When you were employed by the Cigarette Testing Services Division, what types of tests were

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being conducted in that department?

A The laboratory that I worked in was the smoking lab, and it was just the smoking on the smoking machines for the FTC testing. I think we had a static burn unit and a puff by puff.

Q Did you actually conduct those tests?

A Yes.

Q Yourself?

A Uh-huh.

Q Did you analyze any of the results?

A No.

Q And could you tell me please what type of tests were being conducted by the Analytical Research Division when you were employed in that division?

A Basically the same suite of testing that we do at TQAF, which were the only tests that I was involved with. They did other testing but it was in areas that I didn't, didn't work in.

Q Then I wanted to clarify the TLA tests. Could you explain to me again what TLA tests are still being conducted by your department?

A The same tests are being conducted that always have been, the difference being with the exception of the pH that we spoke of earlier.

Q Uh-huh.

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A The, the change in it was, was going from a, a lot-by-lot basis to a process-blend basis so there was no reduction in the, the shopping cart of tests that were being performed.

Q And how often is the process-blend TLA test conducted?

A Those products are doing on a quarterly basis with the exception -- two of them are done every other month and I think everything else is done quarterly.

Q Which two are done every other month?

A DBC Bright and DBC Burley.

Q And which are done on a quarterly basis?

A Everything else, all the other process blends.

Q And, the tests are conducted on a blend basis?

A Yes.

Q Why are the DBC Bright and DBC Burley tests done every other month?

MR. NUNLEY: Objection; foundation.

A I really don't know.

BY MS. BRECKENRIDGE:

Q Does your department have any role in determining how frequently the tests are conducted on

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the DBC Bright and DBC Burley?

A No.

Q Does your department have any role in conducting the frequency of any of the tests which you conduct?

A Now you say "department." Are we talking TQAF, the facility?

Q I am talking about TQAF.

A No, we do not establish frequencies.

Q Well, thank you for your time today, Mr. Grizzell. I appreciate it.

A Thank you.

Q And I have no questions.

CROSS-EXAMINATION

BY MR. NUNLEY:

Q Mr. Grizzell, on behalf of Philip Morris, just a couple questions for the record and the jury. I introduced myself. I'm Chip Nunley.

Mrs. Breckenridge has asked you some questions this morning about TLA testing and I want to just see if I can hopefully clarify a point.

Before 1996 I would like you to focus on where samples were pulled from. Before 1996 samples were taken of tobacco after it had been processed at

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the stemmery and before it was moved to warehouses or once it was put in the warehouses; is that correct?

A That's correct.

Q And that would be before the tobaccos were blended?

A Yes.

Q And in 1996 a protocol change occurred and the blending took place as you have just testified for Mrs. Breckenridge -- excuse me. The testing sampling took place as you just testified from the production blends; is that correct?

A That's correct.

Q That would be after the tobaccos were blended together?

A (Deponent nodding head.)

Q Do you remember when in 1996 that sampling protocol changed?

A I really, I really can't.

Q Okay. That's fine.

Second point of clarification: Although you are functionally a part of the Leaf Department, have you ever been involved in actual leaf blending decisions? By that I mean, have you participated in the process by which decisions are made as to what types of tobaccos go into certain cigarettes?

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A No.

MR. NUNLEY: Okay. Okay. Those are all the questions I have.

MS. BRECKENRIDGE: No.

MR. NUNLEY: Just for the record, we have had an apprentice or trainee court reporter today, and we're going to have her sign a confidentiality agreement. Her name is Audra Vandell. And we'll have that confidentiality agreement signed and just be part of the record in the case. Thank you very much.

He'll read.

(The deposition was concluded at 11:50 a.m.)

And further this deponent saith not.

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H-I-G-H-L-Y C-O-N-F-I-D-E-N-T-I-A-L

I, the undersigned, **RONALD GRIZZELL**, do hereby certify that I have read my foregoing deposition and that, to the best of my knowledge, said deposition is true and accurate (with the exception of the following corrections listed below):

Page/Line	From	To	Reason

Date _____ Signature _____

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H-I-G-H-L-Y C-O-N-F-I-D-E-N-T-I-A-L

COMMONWEALTH OF VIRGINIA, to wit:

Subscribed and sworn before me this _____ day of December, 1997.

My commission expires:

_____
Notary Public

COMMONWEALTH OF VIRGINIA AT LARGE, to wit:

I, Donna T. Chandler, RPR, RMR, Notary Public in and for the Commonwealth of Virginia at large, and whose commission expires April 30, 2001, do certify that the aforementioned appeared before me, was sworn by me, and was thereupon examined by counsel; and that the foregoing is a true, correct, and full transcript of the testimony adduced.

I further certify that I am neither related to nor associated with any counsel or party to this proceeding, nor otherwise interested in the event thereof.

Given under my hand and notarial seal at Richmond, Virginia, this 24th day of November, 1997.

Donna T. Chandler

Donna T. Chandler, RPR, RMR - Notary Public
Commonwealth of Virginia at Large

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